

AMENDED IN SENATE MAY 31, 2016  
AMENDED IN SENATE MARCH 29, 2016

**SENATE BILL**

**No. 1122**

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**Introduced by Senator Cannella**

February 17, 2016

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An act to amend Section 275.6 of, and to add Section 455.4 to, the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

SB 1122, as amended, Cannella. Telecommunications: small independent telephone corporations: rates: universal service: California High-Cost Fund-A.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law authorizes the commission to fix just and reasonable rates and charges for every public utility. Existing law, with certain exceptions, prohibits a public utility from changing any rate, except upon a showing before the commission and a finding by the commission that the new rate is justified. Existing law requires the commission to exercise its regulatory authority to maintain the California High-Cost Fund-A Program (CHCF-A program) to provide universal service rate support to small independent telephone corporations, as defined, in amounts sufficient to meet the revenue requirement, as defined, established by the commission through rate-of-return regulation in furtherance of the state's universal service commitment to the continued affordability and widespread availability of safe, reliable, high-quality communications services in rural areas of the state.

This bill would revise the CHCF-A program requirements to provide that the revenue requirement of a small independent telephone

corporation includes rate case expenses, as defined, and would require that rate case expenses be separately included in the revenue requirement regardless of any commission determinations regarding the reasonableness of other expenses. The *defined*.

*This bill would require the commission to issue its final decision on a general rate case of a small independent telephone corporation no later than 390 days following the corporation's filing of its general rate case application or advice letter initiating the general rate case. If the commission fails to issue a final decision by the 390th day, the bill would provide that the rate design proposed by the small independent telephone corporation in its application or advice letter will take effect on an interim basis, subject to an accounting true-up in a final commission decision or resolution concluding the rate case, if issued within 420 days. If a final decision or resolution concluding the case has not been issued by the commission within 420 days, the bill would provide that the interim rate design that went into effect on the 390th day following the filing of the general rate case application or advice letter would become final and that rate design would remain in place until the commission issues a final decision or resolution concluding the rate case, without any true-up accounting. The bill would provide that any new rate design adopted in a final decision or resolution issued by the commission after 420 days following the filing of the application or advice letter would take effect on a prospective basis only, as of the effective date of the final decision or resolution. authorize the small independent telephone corporation to file a tariff implementing interim rates. The interim rates would generally be effective on the first day of the first test year in the general rate case application, subject to refund and adjustment upward or downward back to the interim rate effective date, consistent with the final rates adopted by the commission. The bill would provide that its these provisions may be waived at any time by mutual consent of the executive director of the commission and the small independent telephone corporation.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 275.6 of the Public Utilities Code is
- 2 amended to read:

275.6. (a) The commission shall exercise its regulatory authority to maintain the California High-Cost Fund-Administrative Committee Fund program (CHCF-A program) to provide universal service rate support to small independent telephone corporations in amounts sufficient to meet the revenue requirement established by the commission through rate-of-return regulation in furtherance of the state's universal service commitment to the continued affordability and widespread availability of safe, reliable, high-quality communications services in rural areas of the state.

(b) For purposes of this section, the following terms have the following meanings:

(1) "Carrier of last resort" means a telephone corporation that is required to fulfill all reasonable requests for service within its service territory.

(2) "Rate base" means the value of a telephone corporation's plant and equipment that is reasonably necessary to provide regulated voice services and access to advanced services, and upon which the telephone corporation is entitled to a fair opportunity to earn a reasonable rate of return.

(3) "Rate case expenses" mean the reasonable ~~costs~~ costs, as determined by the commission, incurred by a telephone corporation in preparing, initiating, and participating in any commission proceeding or advice letter process in which its rates, rate design, or revenue requirement are evaluated or adjusted.

(4) "Rate design" means the mix of end-user rates, high-cost support, and other revenue sources that are targeted to provide a fair opportunity to meet the revenue requirement of the telephone corporation.

(5) "Rate-of-return regulation" means a regulatory structure whereby the commission establishes a telephone corporation's revenue requirement, and then fashions a rate design to provide the company a fair opportunity to meet the revenue requirement.

(6) "Revenue requirement" means the amount that is necessary for a telephone corporation to recover its reasonable expenses and tax liabilities and earn a reasonable rate of return on its rate base. Reasonable expenses include rate case expenses. ~~Rate case expenses shall be separately included in the revenue requirement regardless of any commission determinations regarding the reasonableness of other expenses.~~

1 (7) “Small independent telephone corporations” are rural  
2 incumbent local exchange carriers subject to commission  
3 regulation.

4 (c) In administering the CHCF-A ~~program~~ *program*, the  
5 commission shall do all of the following:

6 (1) Continue to set rates to be charged by the small independent  
7 telephone corporations in accordance with Sections 451, 454, 455,  
8 and 728.

9 (2) Employ rate-of-return regulation to determine a small  
10 independent telephone corporation’s revenue requirement in a  
11 manner that provides revenues and earnings sufficient to allow the  
12 telephone corporation to deliver safe, reliable, high-quality voice  
13 communication service and fulfill its obligations as a carrier of  
14 last resort in its service territory, and to afford the telephone  
15 corporation a fair opportunity to earn a reasonable return on its  
16 investments, attract capital for investment on reasonable terms,  
17 and ensure the financial integrity of the telephone corporation.

18 (3) Ensure that the rates charged to customers of small  
19 independent telephone corporations are just and reasonable and  
20 are reasonably comparable to rates charged to customers of urban  
21 telephone corporations.

22 (4) Provide universal service rate support from the California  
23 High-Cost Fund-A Administrative Committee Fund to small  
24 independent telephone corporations in an amount sufficient to  
25 supply the portion of the revenue requirement that cannot  
26 reasonably be provided by the customers of each small independent  
27 telephone corporation after receipt of federal universal service rate  
28 support.

29 (5) Promote customer access to advanced services and  
30 deployment of broadband-capable facilities in rural areas that is  
31 reasonably comparable to that in urban areas, consistent with  
32 national communications policy.

33 (6) Include all reasonable investments necessary to provide for  
34 the delivery of high-quality voice communication services and the  
35 deployment of broadband-capable facilities in the rate base of  
36 small independent telephone corporations.

37 (7) Ensure that support is not excessive so that the burden on  
38 all contributors to the CHCF-A program is limited.

1 (d) In order to participate in the CHCF-A program, a small  
2 independent telephone corporation shall meet all of the following  
3 requirements:

4 (1) Be subject to rate-of-return regulation.

5 (2) Be subject to the commission's regulation of telephone  
6 corporations pursuant to this division.

7 (3) Be a carrier of last resort in their service territory.

8 (4) Qualify as a rural telephone company under federal law (47  
9 U.S.C. Sec. 153(44)).

10 (e) Upon request from the commission, a small independent  
11 telephone corporation that receives support from the CHCF-A  
12 program shall provide information regarding revenues derived  
13 from the provision of unregulated Internet access service by that  
14 corporation or its affiliate within that corporation's telephone  
15 service territory. The commission shall treat as confidential any  
16 information provided pursuant to this subdivision.

17 (f) The commission shall structure the CHCF-A program so  
18 that any charge imposed to promote the goals of universal service  
19 reasonably equals the value of the benefits of universal service to  
20 contributing entities and their subscribers.

21 (g) This section shall remain in effect only until January 1, 2019,  
22 and as of that date is repealed, unless a later enacted statute, that  
23 is enacted before January 1, 2019, deletes or extends that date.

24 SEC. 2. Section 455.4 is added to the Public Utilities Code, to  
25 read:

26 455.4. (a) For purposes of this section, "small independent  
27 telephone corporation" has the same meaning as in Section 275.6.

28 (b) A small independent telephone corporation may file its  
29 general rate case application or advice letter initiating a general  
30 rate case any time up to and including December 1 of the second  
31 year preceding the test year used in its rate case.

32 (c) The commission shall issue its final decision on a general  
33 rate case of a small independent telephone corporation no later  
34 than 390 days following the corporation's filing of its general rate  
35 case application or advice letter initiating the general rate case.

36 ~~(d) Notwithstanding Section 454, if the commission fails to~~  
37 ~~issue a final decision as required by subdivision (c), the rate design~~  
38 ~~proposed by the small independent telephone corporation in its~~  
39 ~~application or advice letter shall take effect on an interim basis~~  
40 ~~beginning 390 days following the filing of the application or advice~~

1 letter. That rate design shall be subject to an accounting true-up if  
2 a final commission decision or resolution concluding the rate case  
3 is issued within 420 days of the filing. The rate design adopted in  
4 a commission decision or resolution within 420 days shall be made  
5 effective as of the 390th day and the accounting true-up shall  
6 eliminate any revenue differences between the interim rate design  
7 and the rate design in the commission decision or resolution. If a  
8 final decision or resolution concluding the case has not been issued  
9 by the commission within 420 days of the filing, the interim rate  
10 design that took effect on the 390th day following the filing of the  
11 general rate case application or advice letter shall become final  
12 and that rate design shall remain in place until the commission  
13 issues a final decision or resolution concluding the rate case;  
14 without any true-up accounting. Any new rate design adopted in  
15 a final decision or resolution issued by the commission after 420  
16 days following the filing of the application or advice letter shall  
17 take effect on a prospective basis only, as of the effective date of  
18 the final decision or resolution.

19 *(d) Notwithstanding Section 454, if the commission fails to issue*  
20 *a decision as required by subdivision (c), the applicant may file a*  
21 *tariff implementing interim rates that may be increased by an*  
22 *amount equal to the rate of inflation as compared to existing rates.*  
23 *The interim rates shall be effective on the first day of the first test*  
24 *year in the general rate case application. These interim rates shall*  
25 *be subject to refund and shall be adjusted upward or downward*  
26 *back to the interim rate effective date, consistent with the final*  
27 *rates adopted by the commission. The commission may authorize*  
28 *a lesser increase in interim rates if the commission finds the rates*  
29 *to be in the public interest. If the presiding officer in the case*  
30 *determines that the commission's decision cannot become effective*  
31 *on the first day of the first test year due to actions by the small*  
32 *independent telephone corporation, the presiding officer or the*  
33 *commission may require a different effective date for the interim*  
34 *rates or final rates.*

35 (e) The requirements of subdivisions (c) and (d) may be waived  
36 at any time by mutual consent of the executive director of the  
37 commission and the small independent telephone corporation.